

KANSAS MEDICAID STATE PLAN

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30-7-72

30-7-72. Telephone hearings. The hearing officer may conduct the fair hearing or any prehearing by telephone or other electronic means if each participant in the hearing or prehearing has an opportunity to participate in the entire proceeding while the proceeding is taking place. A party may be granted a face to face hearing or prehearing if good cause can be shown that a fair and impartial hearing or prehearing could not be conducted by telephone or other electronic means. The effective date of this regulation shall be July 1, 1989. (Authorized by K.S.A. 75-3304; implementing K.S.A. 75-3306, as amended by L. 1988, Ch. 356, Sec. 302; effective July 1, 1989.)

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30-7-73. Summary reversals. The hearing officer may, without notice or hearing, summarily reverse the agency's decision or action in the matter if it is clear from the agency's summary that the agency's decision or action was incorrect. The effective date of this regulation shall be July 1, 1989. (Authorized by K.S.A. 75-3304; implementing K.S.A. 75-3306, as amended by L. 1988, Ch. 356, Sec. 302; effective July 1, 1989.)

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30-7-74. Independent medical, psychiatric and psychological examinations. When the hearing involves medical, psychiatric or psychological issues, the hearing officer may order on the hearing officer's own motion that an independent medical, psychiatric or psychological assessment other than that of the person or persons involved in making the original decision shall be obtained at agency expense and made part of the record if the hearing officer considers it necessary. If a party requests the independent assessment, that party shall pay the costs incurred in obtaining the assessment. If the party requesting the assessment signs a poverty affidavit, the independent medical, psychiatric or psychological assessment shall be performed at agency expense. The effective date of this regulation shall be July 1, 1989. (Authorized by K.S.A. 75-3304; implementing K.S.A. 75-3306, as amended by L. 1983, Ch. 356, Sec. 302; effective July 1, 1989.)

30-7-75. Agency's summary. Within 15 days after notification of the request for fair hearing the agency shall furnish the appellant and the administrative hearings section with a summary setting forth the following information:

- (a) Name and address of the appellant;
- (b) a summary statement concerning why the appellant is filing a request for a fair hearing;
- (c) a brief chronological summary of the agency's action in relationship to the appellant's request for a fair hearing;
- (d) a statement of the basis of the agency's decision;
- (e) a citation of the applicable policies relied upon by the agency;
- (f) a copy of the notice which notified appellant of the decision in question;
- (g) applicable correspondence; and
- (h) the name and title of the person or persons who will represent the agency at the hearing. The effective date of this regulation shall be July 1, 1991. (Authorized by K.S.A. 75-3304; implementing K.S.A. 75-3306; effective July 1, 1989; amended July 1, 1991.)

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30-7-76. Transcripts. (a) A transcript of the hearing may be prepared if requested by an appellant, the agency, the hearing officer, the state appeals committee or the secretary. The party requesting the transcript or review of the hearing officer's decision shall pay any costs associated in obtaining a transcript.

(b) If an appellant requests a transcript, the agency shall pay the costs of transcribing the recording if the appellant signs a poverty affidavit.

(c) If a transcript is prepared, the reporter shall sign the following certification on all copies: "This is to certify that

_____ conducted a
Name of Hearing Officer
hearing on the application of _____
Name of Appellant
in _____ county, state of Kansas, on _____
Date
at _____ and that the foregoing is a true and
correct transcript of the record of the hearing."

Signature of Reporter

The effective date of this regulation shall be January 2, 1992.
(Authorized by K.S.A. 75-3304; implementing K.S.A. 75-3306;
effective July 1, 1989; amended Jan. 2, 1992.)

30-7-77. Rehearing. (a) Any party, within 15 days after service of the hearing officer's decision, may file a petition for rehearing with the administrative hearings section, stating the specific grounds upon which the rehearing of the hearing officer's decision is requested.

(b) A rehearing may be granted to either party on all or part of the issues when it appears that the rights of the party are substantially affected because:

(1) Of an erroneous ruling of the hearing officer;

(2) the decision in whole or in part is contrary to the evidence; or

(3) of newly discovered evidence which the moving party could not with reasonable diligence have discovered or produced at the hearing.

(c) The filing of a petition for rehearing is not a prerequisite for review at any stage of the proceedings. The filing of a petition for rehearing does not stay any time limits or further proceedings that may be conducted under the Kansas administrative procedures act, K.S.A. 77-501 et seq. and amendments thereto, or any other provision of law. The effective date of this regulation shall be January 2, 1992. (Authorized by K.S.A. 75-3304; implementing K.S.A. 75-3306; effective July 1, 1989; amended Jan. 2, 1992.)

30-7-78. State appeals committee. (a) The secretary may appoint one or more state appeals committees to review the decisions or orders of hearing officers.

(b) The committees shall consist of three impartial persons.

(c) Decisions of the committee shall be by majority vote.

(d) The record, as defined in K.S.A. 77-532, shall be the basis for the state appeals committee review. The effective date of this regulation shall be January 2, 1992. (Authorized by K.S.A. 75-3304; implementing K.S.A. 75-3306; effective July 1, 1989; amended Jan. 2, 1992.)

30-7-79

30-7-79. Motions. (a) Motions, unless made during a hearing, shall:

- (1) Be in writing; and
- (2) state with particularity their bases.

(b) The opposing party shall have 15 days from the date of mailing or personal delivery within which to file a response. The hearing officer may waive the deadline for good cause.

(c) The hearing officer on his or her own motion or at the request of either party may conduct a hearing on the motion. A party requesting a hearing shall include the request in the motion or response. The effective date of this regulation shall be August 1, 1990. (Authorized by K.S.A. 75-3304; implementing K.S.A. 75-3306; effective Aug. 1, 1990.)

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Methods and Standards for Establishing Payment Rates - Skilled Nursing and Intermediate Care Facility Rates (NF and NFs/MH)

Minimum Wage Per Diem Pass Through

This subpart explains the methodology for the minimum wage pass-through. The pass-throughs are effective October 1, 1996 and September 1, 1997. The pass-through is facility specific and requires the provider to submit a report and related documentation. The minimum wage reimbursement is subject to the following conditions:

- 1) A provider who is paying employees the minimum wage or more prior to October 1, 1996 and September 1, 1997, is not entitled to the pass-through factor.
- 2) A provider who is paying employees less than the new minimum wage requirements on October 1, 1996 and September 1, 1997, may request the pass-through factor.
 - A) The factor is restricted to the difference between the employees hourly rate and the new minimum wage hourly rate plus the related increase in the employers payroll taxes and benefits. The minimum wage effective October 1, 1996 is \$4.75 per hour. The minimum wage effective September 1, 1997 is \$5.15.
 - B) The percentage of the employers payroll taxes and benefits can be determined based on the ratio of total benefits to total salaries in the last Nursing Facility Financial and Statistical Report submitted.
 - C) Resident days used in the denominator of the minimum wage per diem pass-through shall be based on the actual days reported on the last Nursing Facility Financial and Statistical Report submitted. The resident days will not be subject to the 85% minimum occupancy factor.
- 3) The per diem pass-through shall not be subject to the cost center limits.
- 4) A retroactive rate adjustment with the minimum wage pass-through for the October 1, 1996 increase will be made back to October 1, 1996. The increase in the minimum wage on September 1, 1997 will allow a

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retroactive rate adjustment back to that date. These adjustments will be made after the Minimum Wage Report and related documentation are received by the agency.

- 5) The minimum wage pass-through factor will be reduced from the Medicaid rate as the related payroll expenses are reflected in the rate from the submission of the Nursing Facility Financial and Statistical Report. For example, a facility with a report year end (RYE) of 12/31/96 receives a \$.20 pass-through for the 10/1/96 minimum wage increase. The factor will be reduced one-fourth, or \$.05, to \$.15 on 7/1/97. This is the rate effective date of the RYE 12/31/96 cost report. The reason is because three months or one-fourth of the increased salary costs are reflected in the per diem rate determined from the cost report.

In the above example, when the per diem rate is effective 7/1/98 from the RYE 12/31/97 cost report, the 10/1/96 minimum wage pass-through will be eliminated. The full cost of the first minimum wage increase is reflected in the cost report and the rate established from it.

Some providers will have a portion of the 10/1/96 pass through and the 9/1/97 pass through beginning 9/1/97. The same method of phasing out the pass through will be used for the 9/1/97 minimum wage increase. The 9/1/97 minimum wage pass-through will be completely eliminated from the rate on 7/1/99.